IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 757 OF 1984

Decided on : 01.03.2007

Naresh and others ...Appellants

Versus

Ram Lal and others ..Respondents

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. Sachin Sood, Advocate,
for Mr. Arun Jain, Advocate,
for the appellants.

None for the respondents.

JUDGMENT

The present Regular Second Appeal filed by the plaintiffs-appellants is directed against dismissal of the suit by the learned 1st Appellate Court, vide judgment and decree dated 06.11.1973. The dismissal of the suit by the 1st Appellate Court is in affirmation of a similar finding by the learned Trial Judge, vide judgment and decree dated 12.09.1983. The dismissal of the suit was based upon a finding upholding the defendants/respondents plea of acquisition of title by adverse possession. The finding was based upon the material obtaining on the file to the effect that Mukand Lal (the conceded predecessor-in-interest of the plaintiffs-appellants) was initially recorded as a co-owner (to the extent of ½ share) in the land in suit till the settlement of 1914-15, the expunction/deletion of his name from the revenue record (as absentee land owner and not being in possession thereof) came to be ordered immediately thereafter. The revenue entries for the period subsequent thereto and extending to a period of about

more than five decades depict the defendants/respondents to be in possession of the entire land. The name of Mukand Lal nowhere at all appears in the revenue record for the last about more than five decades.

In view of that law of the land, the reliance placed by the learned counsel for the appellants in 2006(2) RCR, 593 – T.Anjanappa and others versus Somalingappa and another, 2002(1), P.L.R., 482 – Rustom versus Ramzan and others and 1996(1) RCR, 112 – Ramachandra Naidu (died) versus Seshachala Naidu, is irrelevant and misconceived.

It is established law that a concurrent finding of fact, howsoever erroneous, cannot be interfered with by this Court. It was so held by the Apex Court in AIR 1999, S.C., 2213 – Kondiba Dagadu Kadam versus Savitribai Sopan Gujar and others. As further held by the Apex Court in (2006) 2 S.C.C. 496 – H.P. Pyarejan versus Dasappa (dead) by LRs and others and J.T. 2006(5) S.C. 72 – Gurdev Kaur and others versus Kaki and others, the scope of second appeal is confined to a hearing on substantial question of law and an interference with a finding of fact is not warranted (on the part of the High Court) if it involves re-appreciation of evidence. Examined on the touch-stone of the aforesaid judicial pronouncements of the Apex Court, I find that no substantial question of law arises for decision in this case.

This Regular Second Appeal shall stand dismissed accordingly on a finding that no substantial question of law is raised in it. The judgment and decree dated 12.09.1983 passed by the learned 1st Appellate Court shall stand affirmed.

01.03.2007 (S.D. Anand)
vkd Judge